IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2433 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SARVAJANIK EDUCATION TRUST BORDI

Versus

STATE OF GUJARAT AND ORS.

Appearance:

MR NILESH A PANDYA for Petitioner No. 1
MR SIRAJ GORI, AGP for Respondents Nos. 1,3
MR VIJAY H PATEL for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 03/02/2003

ORAL JUDGEMENT

This is a petition preferred by an educational

trust against the order dated 16th November, 1991 made by the respondent no.2 - Gujarat Secondary Education Board (hereinafter referred to as 'the Board').

It appears that the petitioner is an educational trust. The petitioner runs a primary school at village Bordi, District Panchmahals. The petitioner applied for permission to establish a secondary school by opening a class of Standard-VIII for the academic year 1992-93. The said application has been rejected by the Board under the impugned order dated 16th November, 1991. Feeling aggrieved, the petitioner preferred appeal before the State Government, which too came to be rejected on 31st January, 1994. Feeling aggrieved, the petitioner has preferred the present petition.

Mr.Pandya has submitted that the reasons stated for refusing the permission to open a class of Standard-VIII are non-existent. He has submitted that the other secondary school in the vicinity has given a 'No Objection Certificate' and there is no possibility of unhealthy competition between the schools. Besides, the petitioner has adequate premises available for the proposed class of Standard-VIII. The population of the village has also increased beyond 3000.

Be that as it may, the application made for the academic year 1992-93 can not now be granted. For establishing a new secondary school the prevailing circumstances are required to be considered. No relief, therefore, can be granted to the petitioner herein. The petition is accordingly disposed of. Rule is discharged. The parties shall bear their own costs.

It is clarified that this order shall not preclude the petitioner - Trust from making application for opening a class of Standard-VIII for the academic year 2003-04 or for any year thereafter. If such an application is made, the same shall be considered in accordance with the prevalent rules.

(Ms. R.M. Doshit, J.)

/sakkaf